

### **REMARKS**

Applicant respectfully requests reconsideration and allowance of claims 21-22 that are pending in the above-identified patent application. Applicant has amended the specification and claims 21-22. No new matter is added by way of these claim amendments.

#### **Objections to the Specification**

At page 3 of the Office Action, the Examiner objected to the specification. In response, Applicant has amended the specification as suggested by the Examiner. Accordingly, Applicant respectfully requests withdrawal of the objection.

#### **Rejections Under 35 U.S.C. § 112**

At pages 3-4 of the Office Action, the Examiner rejected claims 21-22 under 35 U.S.C. § 112, second paragraph, as being indefinite, alleging that it is inconsistent to initially recite that the capsule member is configured to enable a capsule to vibrate longitudinally and also transversely while later reciting that there is essentially no transverse movement. While it is believed that claims 21-22 were definite and that Applicant's prior arguments on this point should have been accepted, Applicant has amended claims 21-22 herein to clarify that the inner surface of said capsule chamber and the outer surface of said capsule define clearance along the longitudinal axis and clearance in a transverse direction sufficient to enable the capsule to vibrate longitudinally (in the direction of air flow) and also transversely (at right angles to the direction of flow). The raised elements on the inner surface of said capsule chamber extend into the clearance of the transverse direction to constrain the capsule such that, when it vibrates within the capsule chamber, movement back and forth along its longitudinal axis is permitted with essentially no transverse movement.

Applicants submit that the claim amendments herein overcome the § 112, second paragraph, rejection, and accordingly, Applicant respectfully requests withdrawal of the rejection.

#### **Rejections Under 35 U.S.C. § 103(a)**

At pages 4-6 of the Office Action, the Examiner rejected claims 21 and 22 under 35 U.S.C. § 103(a) as being unpatentable over Valentini (the '819 patent) in view of Kladders (the '114 patent). Applicant respectfully traverses the Examiner's rejection, as there is a clear teaching away from the

combination of Valentini and Kladders, and further, even if such combination is carried out, the resulting device would be inoperative for the intended purpose set out in Valentini.

Indeed, Valentini teaches that the capsule must undergo vortical motion, which includes rotation, precession, and vibration, in order to achieve the stated utility. (Col. 1, lines 21-26; and FIG. 5). The Examiner conceded, in the Office Action at page 2, that the Valentini device is not adapted to limit transverse motion; however, the Examiner has not acknowledged that such motion is required in the Valentini device in order to achieve the object of the invention. This is a clear teaching away from the alleged feature in Kladders that the projections 7 limit transverse or rotational motion. On this basis alone, the Examiner's § 103(a) rejection of claims 21-22 as being unpatentable over Valentini in view of Kladders should be withdrawn.

As a separate, but equally persuasive basis for traversing the § 103(a) rejection of claims 21-22, assuming that a skilled artisan would combine the teachings of Valentini and Kladders (which is not conceded), the resulting combination would render the Valentini device inoperable for its intended purpose (vertical movement).

Accordingly, Applicant submits that the § 103(a) rejection of claims 21-22 should be withdrawn.

## **Conclusion**

In view of the foregoing, Applicant submits that the instant claims are in condition for allowance. Early and favorable action is earnestly solicited. In the event there are any fees due and owing in connection with this matter, please charge same to our Deposit Account No. 11-0223.

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Respectfully submitted,

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